

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

XR COMMUNICATIONS, LLC, dba
VIVATO TECHNOLOGIES,

Plaintiff,

v.

AT&T SERVICES INC.; AT&T MOBILITY
LLC; and AT&T CORP.,

Defendants.

Case No. 2:23-cv-00202-JRG-RSP
(Lead Case)

ORDER

Before the Court is Defendants' and Intervenor's Motion for Leave to File Amended Answer and Counterclaims to Plaintiff's Complaint for Patent Infringement. **Dkt. No. 228.** In the Motion, Defendants and Intervenors (hereinafter, "Defendants") seek to amend their Answer such that their claims of invalidity, previously only brought as affirmative defenses, are now also brought as counterclaims.

This case began more than two years ago when Plaintiff filed its Complaint on May 8, 2023. Dkt. No. 1. Defendants finished filing their operative Answers to the Complaint on November 19, 2024 (Dkt. No. 100), which was the same day as the deadline set out in the Court's Docket Control Order (Dkt. No. 95 at 7). Defendants filed the instant Motion on July 17, 2025. Dkt. No. 228.

Problematically, at no point in their Motion do Defendants substantively address why they delayed raising this issue for so long. Their only argument regarding timeliness is that "[w]hile Defendants/Intervenor's request for leave to amend comes after the deadline set by the DCO," their amendments are mere "formalities." Dkt. No. 228 at 6. This does not explain why it took them almost eight months to file the instant Motion. As a result, the pre-trial conference is now

less than three weeks away. *See* Dkt. No. 154 at 1.

In short, Defendants' Motion is untimely, and it is **DENIED** for that reason.

SIGNED this **4th** day of **August**, **2025**.



ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE